



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,144	09/23/2003	Mark Trocki	VI/00-001.CIP.D3	2967
21140	7590	08/27/2007	EXAMINER	
GREGORY L BRADLEY			MACNEILL, ELIZABETH	
MEDRAD INC				
ONE MEDRAD DRIVE			ART UNIT	
INDIANOLA, PA 15051			PAPER NUMBER	
			3767	
			MAIL DATE	
			DELIVERY MODE	
			08/27/2007	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/669,144

Applicant(s)

TROCKI ET AL.

Examiner

Elizabeth R. MacNeill

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-11 and 13-16 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9 July 2007 has been entered.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,6-11, and 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Trull et al (US 5,947,929).

Regarding claims 1 and 8, Trull teaches a syringe (210), a body (212), a plunger (220) in an injector (250) with a housing (250), and a piston (240/ rod 254), with a collet (and

Art Unit: 3767

elastomeric) member (238) which releasably grasps and retracts the plunger (220) (Fig 13)

Regarding claim 11, Trull teaches a syringe (210), a body (212), a plunger (254) in an injector (250) with a housing (250), and a piston (240) with a sleeve member (242) and one or more plunger gripper members (232, 234) which are adapted to be biased by the sleeve member into engagement with the plunger upon retraction of the piston. Fig 13.

Regarding claims 6,7,9,10,13-15, the piston is adapted to drive and engage the plunger without regard to the orientation of the plunger with respect to the piston. As to claim 16, since the volume of the elastomeric member does not change, it inherently must compress axially in order to expand radially.

Allowable Subject Matter

3. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: Claim 12 recites the limitations of claim 11 (rejected above) with the further limitations of a collar connected to one end of the piston sleeve, the collar defining an opening through which the piston extends; a plunger cap connected to the collar, the plunger cap defining an interior space and a plurality of slots formed in a side thereof; a gripper extender disposed on an end of the piston within the interior space of the plunger cap; a plurality of grippers disposed through the slots and engageable with the gripper extender, and a biasing member in contact with the piston sleeve; whereby,

upon movement of the piston in a rearward direction, the biasing member biases movement of the piston sleeve to substantially prevent movement of the piston sleeve in the rearward direction to cause the gripper extender to push the plurality of grippers through the slots in the plunger cap into engagement with the plunger within the syringe. The structure of the plunger cap and collar with slots and gripper extenders, grippers, and biasing member are not suggested or taught by the prior art at the time the invention was made.

Response to Arguments

5. Applicant's arguments, see remarks, filed 9 July 2007, have been fully considered and are not persuasive.
6. Regarding Trull, applicant has argued that Trull teaches that the plunger and piston disengage when driven in a rearward direction. This is not found persuasive because the cited portion of the Trull patent (Col 10) relates to when the piston is fully withdrawn into the face plate 250 and the plunger is disengaged from the piston in order to replace the front loading syringe. Trull is not describing the injection phase of operation in the cited section. Applicant's arguments regarding claim 1 are unclear. The faceplate and receptacle 250/246 are not a part of the piston assembly. Piston/driving head 240 has flexible/elastomeric/collet members 233 and 234. See Fig 13. Regarding the new argument, found at page 9, applicant has argued that Trull does not disclose the invention because he discusses only the replacement of the syringe. Although Trull does not disclose the operation of the coupling members while the plunger is within the body of the syringe, it is clear from the drawings and the mechanical arrangement of the

Art Unit: 3767

syringe that when pushed forward, fingers 232,234 would push the plunger forward by contacting the posts 226,224 without a connective engagement, since the fingers would compress inwardly against the distal surface of the posts. During retraction, the fingers would have to expand outwardly into the grooves of the posts and maintain a connective engagement with the posts to withdraw the syringe. The action of the posts and fingers when the piston is withdrawn into the driving head 240 are not relevant to the operation of the plunger while in the body of the syringe. The Trull rejection is maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth R. MacNeill whose telephone number is (571)-272-9970. The examiner can normally be reached on 9:00-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3767

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERM

Elyse
Mar 11/11
7/24/07

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons